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MEMO ENDORSE

July 8, 2008

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By Hand

The Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

*Re: Lundgren v. Julius
07 Civ. 4534(WP4)*

Dear Judge Karas:

I am counsel to the Plaintiff in this matter.¹ I am writing you pursuant to Local Civil Rule 37.2 and Section II A. of your Individual Rules of Practice, and I request a pre-motion conference in this matter so that I can move for summary judgment pursuant to FRCP 56 on the issue of liability only.²

This is a diversity personal injury action wherein my client, Jennifer Lundgren was a passenger in the rear seat of an automobile driven by defendant Sean Julius and owned by his mother Sharon Davis. The circumstance of this one car accident is that Mr. Julius drove the automobile into a telephone pole on the side of the road. He was intoxicated at the time of the accident and ultimately pled guilty to driving while intoxicated.

¹ This matter was assigned to Magistrate Judge Yanthis for pre-trial purposes.

² This matter was discontinued against the other defendant in this matter, Viccaro Wines & Liquors, by stipulation.

Letter to Judge Karas
July 8, 2008
Page Two

It is submitted that the liability of Mr. Julius can be established by the uncontested facts of the matter and the admissions he made at his deposition. Likewise, Ms. Davis' vicarious liability pursuant to the New York Vehicle and Traffic Law is clear as the automobile Mr. Julius drove the vehicle in question with her permission.

I look forward to meeting with you and opposing counsel to discuss this matter.

Very truly yours,


Mitchell J. Baker

MJB:ww

cc: Steven Martin, Esq.
(Via Telecopier and First Class Mail)

The Court will hold a pre-motion conference on August 7, 2008, at 2:45 p.m. Defendant is to respond to this letter by July 28, 2008.

SO ORDERED,
KENNETH M. KARAS U.S.D.J.
7/21/08